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February 26, 2014

Magistrate Judge Laurel Beeler  
U. S. District Court, Northern District of California  
San Francisco Courthouse, Courtroom C, 15<sup>th</sup> floor  
450 Golden Gate Ave.,  
San Francisco, CA 94102

Re: *U.S. Ethernet Innovations LLC v. Acer, Inc., et al.*  
Civil Action No. 5:10-cv-03724 JW (LB) (“the Acer case”)

**Intel’s Reply in Support of Discovery Dispute Letter Regarding USEI’S Improperly Withheld Documents and Non-Compliant Privilege Log**

Dear Judge Beeler:

USEI’s February 25, 2014 “Response” to Intel’s “Discovery Dispute Letter Regarding USEI’s Improperly Withheld Documents and Non-Compliant Privilege Log” wholly mischaracterizes the actual record of communications between the parties as Intel’s February 24, 2014 letter brief and the exhibits thereto make clear. *See* Exhibit 1 to Dkt. 1006-1. Among other of USEI’s misstatements: (i) it was USEI, not Intel, that would not submit a joint letter brief; (ii) it was USEI that would not respond to Intel’s complaints for five months, and until the discovery clock was nearly expired; and (iii) it was USEI that ultimately did respond with letters that sidestepped the overwhelming majority of Intel’s complaints as an apparent stall tactic to run out the clock on Intel’s ability to conduct discovery.

USEI complains that Intel did not “explain the basis of the subject motion” and claims that “USEI has gone to significant lengths to address each and every specific complaint raised by Intel.” Dkt. 1011 at 1. These statements are proved false by the simple fact that USEI’s amended privilege log—attached to its own Response—still fails, on its face, to comply with Your Honor’s Standing Order. Dkt. 1011-5. This deficiency was repeatedly brought to USEI’s attention but to no avail. Intel’s responsive letter to USEI is attached, explaining that, yet again, USEI’s February 24<sup>th</sup> letter and February 25<sup>th</sup> Amended Privilege Log fails to address the overwhelming majority of Intel’s complaints and that Intel’s letter brief, unfortunately, still needs the Court’s attention on all issues. *See* Declaration of Seth Sproul Ex. 1.

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Separately, despite ignoring Intel's repeated inquiries about whether it must file USEI's privilege logs under seal—due to USEI having marked the logs as “CONFIDENTIAL – PURSUANT TO PROTECTIVE ORDER”—USEI did not file its Response and privilege log exhibits under seal. Incredibly, USEI still provides the CONFIDENTIAL designation on its publicly-filed Response. Intel expressly advised USEI that it would seek fees for having to prepare all of the under seal filings if it was not necessary to do so. *See* Exhibit 1 to Dkt. 10006-1. As with other issues for this motion, USEI's representation to the Court is inconsistent with its actual treatment of its privilege log.

Sincerely,

*/s/ Garland T. Stephens*

Garland T. Stephens